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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 003236

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SUBJECT: THAI HUMAN RIGHTS BODY BLAMES POLICE FOR OCTOBER 7
VIOLENCE; LATER INDEPENDENT REPORT EXPECTED TO BLAME PAD

REF: BANGKOK 3143 (SOMCHAI WON'T RESIGN)

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Classified By: DCM JAMES F. ENTWISTLE, REASON 1.4 (B, D)

11. (C) Summary: The National Human Rights Commission (NHRC) released a report on October 17 blaming the RTG for excessive use of force during the October 7 clash between People's Alliance for Democracy (PAD) protestors and the police. The clash resulted in two fatalities and numerous injuries, including, according to the NHRC report, lost limbs due to tear gas canister explosions. The report, produced with unprecedented speed, concluded that the Bangkok Metropolitan Police, acting on government orders, used excessive force to disperse PAD protestors with tear gas and that this constituted a human rights violation. Meanwhile, an independent fact-finding committee appointed by the RTG commenced a separate investigation of the incident. The committee's findings are not expected anytime soon, but it is anticipated to blame PAD for the violence. The exploding Chinese-made teargas canisters used by the police on protestors launched a Human Rights Watch project to track worldwide sales of the canisters in an effort to warn security officials about the potential for fatalities and injuries based on the Thai experience.

12. (C) Comment: Few Thais, aside from politicians, place much weight, if any, on reports issued from the NHRC or the government-appointed fact-finding committee. Politics hijacked any moral authority held by either group since the NHRC is perceived to support PAD and the fact-finding committee is thought to favor the RTG. Meanwhile, human rights activists lament the lost chance for a neutral body to address the events of October 7. End Summary and Comment.

NHRC REPORT RELEASED IN RECORD TIME

13. (C) The NHRC, an ostensibly neutral body mandated by the Thai constitution to review human rights abuses, issued a five-page report on October 17 that placed blame on the Bangkok Metropolitan Police and the RTG for the violence and fatalities during the October 7 clash between PAD supporters and the police. Democrat Party (DP) leader Abhisit Vejjajiva petitioned the NHRC to investigate the incident on October 9. NHRC member, and co-author of the report, Kamol Kamoltrakul told us that the NHRC reached rapid consensus about RTG use of excessive force, and explained that NHRC wanted to issue a

report to the public as fast as possible. In the past, he explained, "the NHRC didn't do enough, fast enough, in investigating extra-judicial killings during the War on Drugs, and we regret that." Kamol told us that NHRC members interviewed victims in hospitals, accompanied leading forensics expert Porntip Rojanasunan during her investigation into the causes of the deaths and injuries, and visited police headquarters to inspect the tear-gas canisters and crowd-control methods used by the police. Kamol said that the NHRC plans to release two additional reports on the incident.

14. (C) Former NHRC advisor and present Human Rights Watch employee Sunai Phasuk privately told us the one-week time frame to produce the report was unprecedented and contrary to typical NHCR procedures. He pointed out that the NHRC's report on the Krue Sae Mosque incident in 2004 took 90 days to complete, and included multiple fact-checking exercises and cross examinations of witnesses. "They chose to release what should have been considered preliminary findings, and tainted the integrity of the report," he added. Sunai told us that the NHRC released the report to provide leverage for PAD and the Army to pressure PM Somchai Wongsawat to resign. He added that he was shocked to see NHRC commissioner Sunee Chaiyarose hold a press conference to release the report, as the commissioner previously avoided major media events.

NHRC Views Report as Legal Support to Victims

16. (C) Kamol anticipated that the NHRC report would assist those impacted by the violence of October 7 to file lawsuits against the RTG. According to an employee of the NGO International Commission of Jurists (ICJ), the Thai courts

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could consider the NHRC report as supporting evidence, but judges likely would not consider it prima facie evidence of government wrongdoing. Family members of victims of the Krue Sae Mosque and Tak Bai incidents from 2004 used NHRC reports to support their charges against the RTG, and NHRC correspondence with the Internal Security Operations Command was used in another recent trial regarding alleged abuses.

17. (C) Our ICJ contact privately dismissed the significance of the latest NHRC report, saying the Commission appeared politically biased. She added, "NHRC is not functioning properly at the moment, and we're all waiting for the new commissioner to be appointed." Sunai, from Human Rights Watch, echoed this view, claiming that the NHRC as a whole, and the Commissioner in particular, were staunchly anti-Thaksin.

NHRC'S Mandate: Monitor RTG, Not PAD

17. (C) A former NHRC Commissioner, Charan Ditthaphichai published a letter to a newspaper labeling the report as politically biased. Charan cited the omission of any discussion of PAD action that may have contributed to the day's violence, questioned the neutrality of NHRC members, and accused the NHRC of not following internal procedure, which required them to present the report to the petitioners, the accused, the PM and the National Assembly before making it public. Kamol dismissed Charan's accusations and told us that the NHRC's mandate is to examine human rights violations by the authorities, not those of the PAD. He added that PAD's actions may have violated certain criminal laws, but police use of force on unarmed citizens violated human rights.

RTG Fact-Finding Committee Expected to Blame PAD

18. (C) The RTG has approved the establishment of an independent, 11-member fact-finding committee to investigate the October 7 clash. In his October 17 press conference

(reftel), PM Somchai stressed the importance of awaiting this committee's report. The committee's first meeting took place on October 17, and a second meeting is scheduled for November 13. The committee does not have a deadline for issuing a report, and the investigation appears to be moving at a much slower pace than the NHRC's. Committee Chairman Preecha Panichwong is a retired Vice President of the Supreme Court, and according to credible contacts, has little to no forensics training.

19. (C) Sunai and Kamol advised privately that the committee would likely take many months to issue a report because the RTG will use the committee to prolong the investigation. Both agreed that the committee would inevitably blame PAD for the October 7 violence. "Everyone knows the independent body is a joke," Sunai added, "and, that the NHRC lost a chance to issue a balanced report when it was needed most." Kamol suspected that the committee's report would blame former Deputy Prime Minister Chavalit Yongchaiyudh and could be fought over by feuding factions within the Metropolitan Police.

Effort Started to Track Tear Gas Model Worldwide

10. (C) Based on videotapes of the police use of teargas on October 7, and forensic evidence of the injuries caused by the Chinese-made teargas canisters exploding, Human Rights Watch started a worldwide investigation to detect other countries that purchased the same Chinese model of teargas used in Bangkok. According to Sunai, HRW is concerned because of the apparent explosive force of the canisters. HRW hopes to prevent future use of this tear gas model and plans to warn other governments about the potential for death or severe injuries if the canisters are fired directly into crowds. (We note that, while the canisters may be unusually powerful, the Thai police appeared not to understand the proper way to fire them; misuse by the police, in addition to the canisters' unusual explosive force, may have contributed to the protestors' excessive injuries.)

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